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REMARKS/DISCUSSION OF ISSUES

In the Final Office Action, Examiner Nguyen rejected pending claims 9-28 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,146,498 to *Smith*. The Applicant has thoroughly considered Examiner Nguyen's remarks concerning the patentability of pending claims 9-28 over *Smith*. The Applicant has also thoroughly re-read *Smith*. To warrant this anticipation rejection of claims 9-28, *Smith* must show each and every limitation of claims 9-28 in as complete detail as in contained in claims 9-28. See, MPEP §2131. The Applicant respectfully traverses this anticipation rejection of claims 9-28, because *Smith* fails to disclose, teach or suggest:

1. "wherein said terminal is operable to transmit a second message to said radio network controller subsequent to a reception of the first message by said terminal, the second message being coded with a new cipher key as an acknowledgement of the cipher key change by said terminal" as recited in independent claim 9;
2. "wherein the first message includes the new cipher key" as recited in dependent claims 10 and 18;
3. "wherein said radio network controller is operable to transmit a third message to said terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a deciphering by said radio network controller of the second message with the new cipher key" as recited in dependent claim 11;
4. "wherein the third message is coded with the new cipher key as an indication that said radio network controller deciphered the second message with the new cipher key" as recited in dependent claims 12 and 20;

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5. " wherein said radio network controller is operable to transmit a third message to said terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a failure by said radio network controller to decipher the second message with the new cipher key" as recited in dependent claim 15;

6. "wherein the third message is coded with an old cipher key as an indication that said radio network controller failed to decipher the second message with the new cipher key" as recited in dependent claims 16 and 24;

7. "means for receiving a second message from the terminal subsequent to a reception of the first message by the terminal, the second message being coded with a new cipher key as an acknowledgement of the cipher key change by the terminal" as recited in independent claim 17;

8. "wherein said radio network controller further includes means for transmitting a third message to the terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a deciphering by said radio network controller of the second message with the new cipher key" as recited in dependent claim 19;

9. "wherein said radio network controller further includes means for transmitting a third message to the terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a failure by said

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radio network controller to decipher the second message with the new cipher key" as recited in dependent claim 23;

10. "means for transmitting a second message to the radio network controller subsequent to a reception of the first message by the terminal, the second message being coded with a new cipher key as an acknowledgement of the cipher key change by the terminal" as recited in independent claim 25;

11. "wherein said terminal further includes means for receiving a third message from the radio network controller subsequent to a reception of the second message by the radio network controller, the third message being indicative of a deciphering by the radio network controller of the second message with the new cipher key" as recited in dependent claim 26; and

12. "wherein said terminal further includes means for receiving a third message from the radio network controller subsequent to a reception of the second message by the radio network controller, the third message being indicative of a failure by the radio network controller to decipher the second message with the new cipher key" as recited in dependent claim 28.

Specifically, as illustrated in FIG. 1, *Smith* discloses a cipher key change procedure for a subscriber unit 10, which determines if it has received a key change command during a block 2 wherein the key change command includes an operational code and data X to enable the subscriber unit 10 to subsequently generate a new cipher key. Thus, *Smith* clearly does not teach or suggest the key change command as including the new cipher key.

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Upon receiving the key change command, subscriber unit 10 decodes the key change command during a block 24 to thereby generate the new cipher key during a block 26 as a function of a base or old cipher key, the operational code and data X. Subscriber unit 10 thereafter acknowledges a completion of the generation of the new key to a central controller 20 during a block 28.

Again, a proper review of *Smith* reveals that, while *Smith* teaches a coding of data/voice with the new cipher key by subscriber unit 10 subsequent to the generation of the new cipher key during block 26, *Smith* fails to teach or suggest a specific coding of the acknowledgement (i.e., non data/voice) by subscriber unit 10, particularly a coding of the acknowledgment with the new cipher key. See, Smith at column 3, lines 34-57. This is further evidenced by the failure of *Smith* to teach a specific decoding of the acknowledgement by the central controller 20, particularly a decoding of the acknowledgement with the new cipher key. See, Smith at column 3, line 58 to column 4, line 9. Furthermore, a proper review of FIG. 2 of *Smith* reveals that *Smith* fails to disclose, teach or suggest a block or blocks in FIG. 2 for a transmission from central controller 20 to subscriber unit 10 of either (1) a message coded with the new cipher key as an indication that the acknowledgment was deciphered with the new cipher key by controller 20, or (2) a message coded with the base or old cipher key as an indication of a failure by controller 20 to decipher the acknowledgement with the new cipher key.

Withdrawal of the rejection of pending claims 9-28 under §102(b) as being anticipated by *Smith* is therefore respectfully requested.

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SUMMARY

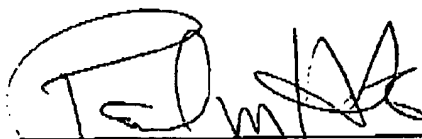
Examiner Nguyen's rejection of pending claims 9-28 has been obviated by remarking herein supporting an allowance of claims 9-28 over the art of record. The Applicant respectfully submits that claims 9-28 as listed herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, Examiner Nguyen is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: April 2, 2004

Respectfully submitted,
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